

EXECUTIVE OFFICER SUMMARY REPORT
April 10, 2002

ITEM: 10

SUBJECT: **PUBLIC HEARING:** Complaint No. RB9-2002-0053 for administrative assessment of civil liability for violation of California Water Code (Water Code) section 13267, against Mr. Ernest Moretti for failure to submit a technical report. (Barry S. Pulver)

PURPOSE: To hold an informal hearing to receive testimony from the public, Mr. Moretti, and Regional Board Staff regarding the allegations and recommendations for administrative civil liability contained in Complaint RB9-2002-0053 (Document 1), and consider adoption of tentative Order No. RB9-2002-0085.

PUBLIC NOTICE: The public was notified of this hearing and tentative order in the agenda for the April 10, 2002 meeting of the Regional Board. The agenda was mailed to interested persons on March 22, 2002.

DISCUSSION: The Regional Board issued Complaint Number RB9-220-0053 for an Administrative Civil Liability (ACL) of \$42,625 against Mr. Moretti (Documents 1, 2, and 3) on February 11, 2002. The complaint alleges that Mr. Moretti failed to submit a soil and groundwater investigation technical report regarding the former Santa Ysabel Chevron site, as required by the Regional Board pursuant to Water Code section 13267 (Document 4). An adequate report was due on February 24, 2000. Further, an adequate report had not been received by March 27, 2002.

A summary of the factual and analytical evidence supporting the ACL for this violation is presented in the staff report titled, *“California Regional Water Quality Control Board, San Diego Region, Technical Analysis, Proposed Administrative Civil Liability Contained in Complaint No. RB9-2002-0053, issued to Mr. Ernest Moretti for Noncompliance with California Water Code Section 13267, Former Santa Ysabel Chevron, 30350 Highway 78, Santa Ysabel, California”* (Document 3). Below is a table showing the potential maximum liability and the recommended liability for the violation.

Days of Violation	Liability		
	Minimum	Maximum	Recommended
775	\$0.00	\$775,000.00	\$42,625.00

The recommended ACL is based on the severity of the violation, the potential threat to water quality from the discharge, and Mr. Moretti's record of non-compliance (Document 3). Mr. Moretti intentionally delayed the investigation of petroleum hydrocarbon contamination at the former Santa Ysabel Chevron and therefore is fully culpable for this violation. Mr. Moretti has a long history of non-compliance with regulatory requirements at the site (Document 5). Voluntary cleanup efforts at the site have been minimal. Due to his lack of action in cleaning up the site, Mr. Moretti is suspected of permitting groundwater pollution to migrate, creating a potential pollution threat to the many domestic groundwater wells in Santa Ysabel. The total staff costs incurred by the Regional Board and Office of Chief Counsel is estimated to be \$14,400. Considering these factors the proposed civil liability is assessed at \$55.00 per day of violation for 775 days of violation for a total of \$42,625.

LEGAL CONCERNS:

There are no known legal concerns.

**SUPPORTING
DOCUMENTS:**

1. Complaint No. RB9-2002-0053 for Administrative Civil Liability (with cover letter)
2. Tentative Order No. RB9-2002-0085
3. California Regional Water Quality Control Board, San Diego Region, Technical Analysis, Proposed Administrative Civil Liability Contained in Complaint No. RB9-2002-0053, issued to Mr. Ernest Moretti for Noncompliance with California Water Code Section 13267, Former Santa Ysabel Chevron, 30350 Highway 78, Santa Ysabel, California
4. Order to implement a soil and groundwater investigation and submit a technical report pursuant to Water Code Section 13267
5. Regulatory History
6. Site Location Map
7. Site Vicinity Map

RECOMMENDATION:

Adopt tentative order No. RB9-2002-0085 (Document 2).